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IN THE

Supreme Court of the United States

October Term, 1968

No. 521

DORRIS E. DREYFUS,

Petitioner,

vs.

MICHAEL REESE HOSPITAL AND MEDICAL CENTER, a not-for-profit corporation,

Respondent.

PETITIONER'S REPLY BRIEF

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

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In its Reply Brief, respondent has so unfairly stated the issues, facts and law in relation to the Petition on file herein that petitioner is compelled to file this Reply Brief.

I

WHETHER RESPONDENT IS ENTITLED TO THE INSURANCE PROCEEDS TURNS UPON THE VALIDITY OF THE 1957 AND 1958 ORDERS

After having originally pleaded the orders of October 7, 1957 and November 18, 1958 in opposition to petitioner's claims, respondent now asserts that the orders are not directly related to its rights to the proceeds of certain insurance policies payable, by their terms, to Trust No. 33703.

As pointed out in the Petition, and as recognized by the Seventh Circuit in its opinion (App.[1] A 2) and the District Court in its opinion (App. C 5), the proceeds of the insurance policies belonged to the trust which was the named beneficiary under the policies. The fact that Philip Dreyfus reserved to himself a testamentary power to appoint the trust assets, a part of which were in the insurance proceeds, did not change the nature of the proceeds as assets of Trust No. 33703. As such, the proceeds, like all other assets of the trust, were subject to and charged with the prior obligations of the trust, including the obligation to petitioner arising out of the October 31, 1955 amendment to the trust (R. 8) which provided for the payment of the balance of the lump sum property settlement in lieu of alimony due on July 23, 1964 and the payment of child support provided for under the divorce decree (RS 21).

Whether respondent should receive the proceeds of the

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[1] As used herein:
"App." refers to Appendix of Petition for Writ.
"R." refers to Appendix in the record.
"RS" refers to Supplemental Appendix in the record.

policies payable to Trust No. 33703, which trust was purportedly appointed to respondent by the Will of Philip Dreyfus (R. 9), or whether petitioner is entitled to all or a portion of those proceeds to satisfy the obligations of the trust to petitioner, turns on the question of whether the orders of 1957 and 1958 were valid or invalid.

If those orders are invalid, petitioner had priority to those proceeds as assets of the trust by virtue of the 1955 amendment to the trust. (R. 8)

Petitioner emphasizes that she is not a creditor of decedent but, rather, an obligee of the trust, and, as such, the citation by respondent of *Veith v. Chicago Title & Trust Co.* is not applicable.

II

THE ILLINOIS STATE COURT LACKED BOTH IN PERSONAM AND SUBJECT MATTER JURISDICTION

Respondent has attempted to confuse the issues before this Court.

Petitioner contends that the orders of 1957 and 1958 were entered without personal jurisdiction, and that to the extent those orders purported to modify the divorce decree and the trust's obligations to petitioner, the orders were entered without subject matter jurisdiction. As a consequence, the orders were void and therefore subject to collateral attack.

In reply, respondent asserts continuing jurisdiction in the Illinois court to justify the lack of proper notice. Not only did the Illinois court lack continuing jurisdiction to modify the 1955 decree of divorce (Ill. Rev. Stats. Ch. 40, sec. 19 – App. D 3) but, also, the record is void of any reference to proper

and statutorily prescribed notice from the court (App. D 1) necessary to invoke its continuing jurisdiction, even had it existed.

By footnote on page 4, respondent states "facts" designed to cleanse the notices to petitioner of their infirmities. For instance, respondent recites that service was by registered mail—it was not (RS 29). Respondent recites that service was upon petitioner's Los Angeles attorneys—at no time did petitioner have a Los Angeles attorney of record or otherwise in connection with any proceedings relating to the 1955 Illinois divorce or the decree. Respondent recites notice of a hearing served on October 2, 1958—that was nothing more than a notice from Philip Dreyfus that a petition would be filed by him some two weeks later; no notice was ever given that the petition was in fact filed or that any hearing upon it was set by the court. These "facts" are insufficient to establish proper service and do not establish that the Illinois court had either personal or subject matter jurisdiction.

CONCLUSION

Respondent has vigorously attempted to obscure the deficiencies inherent in the 1957 and 1958 orders. Moreover, respondent has attempted to overcome those deficiencies by disclaiming the relevancy of the orders, which were first introduced into this litigation by respondent in direct defense against petitioner's claims.

Petitioner believes that in spite of these attempts, the record is clear that petitioner has been deprived of her constitutional rights. Petitioner accordingly urges the granting

of her Petition.

Respectfully submitted,

R. WICKS STEPHENS II

Attorney for Petitioner

AFFIDAVIT OF SERVICE

STATE OF CALIFORNIA)
) ss.
County of Los Angeles)

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and employed in the County of Los Angeles, State of California, over the age of eighteen years and not a party to the within action or proceeding; that

My business address is 215 West Fifth Street, Suite 205, Los Angeles, California 90013, that on OCTOBER , 1968, I served the within PETITIONER'S REPLY BRIEF (Dreyfus v. Michael Reese, No. 521, Oct. Term, 1968) on the following named parties by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office in the City of Los Angeles, California, addressed to said parties at the address as follows:

FRANK D. MAYER, GEORGE V. BOBRINSKOY, JR.
231 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60604
Attorneys for Michael Reese Hospital

I swear under penalty of perjury that the foregoing is true and correct.

Executed on OCTOBER , 1968, at LOS ANGELES, CALIFORNIA.

_____
D. A. Standefer

SUBSCRIBED AND SWORN TO BEFORE ME
THIS DAY OF OCTOBER, 1968.

_____
NOTARY PUBLIC IN AND FOR THE
STATE OF CALIFORNIA.